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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,998	02/09/2004	Alf Bernd Michael Von Merveldt	9650-7	2546
30448	7590	05/16/2006		
AKERMAN SENTERFITT P.O. BOX 3188 WEST PALM BEACH, FL 33402-3188			EXAMINER POLLICOFF, STEVEN B	
			ART UNIT 3728	PAPER NUMBER

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,998

Applicant(s)

VON MERVELDT, ALF BERND
MICHAEL

Examiner

Steven B. Pollicoff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/09/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Claim 4 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 4 defines how the bend is formed in the flat sheet of plastic but does not further define the bend from the previous claim.

Claim Objections

Claim 1 is objected to because of the following informalities: The word "and" in line 5 is misspelled. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Baker et al., (US Pat 6,213,305).

With respect to claims 1 and 8, Baker discloses a bulk bag (Fig 1 reference number 10) having flexible side walls; a bottom wall configured to define, with the sidewalls, a generally rectangular shape of bag and a pair of laterally spaced generally flexible sleeves (26) associated with the bottom wall and each of which operatively

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receives a generally rigid tubular element (28), and wherein each tubular element has, at one end thereof, outwardly directed/integral flange formations (Fig 5 reference number 60; see also column 4, lines 20-23) formed by bends in the material with the bends being at right angles (Fig 5 at reference number 36) to a length of the tubular shape, and means (72) at either end (both ends are identical) for inhibiting movement of said other end.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al., (US Pat 6,213,305) in view of Brandes et al., (US Pat 6,041,718).

With respect to claims 2,3 and 6, Baker discloses a bulk bag having flexible side walls; a bottom wall configured to define, with the sidewalls, a generally rectangular shape of bag and a pair of laterally spaced generally flexible sleeves associated with

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the bottom wall and each of which operatively receives a generally rigid tubular element, and wherein each tubular element is made to a generally rectangular cross-sectional configuration (Fig 9). Baker does not disclose that the tubular elements are composed of a flat sheet of plastic material having a series of integral spaced parallel webs or ribs of material strengthening the sheet wherein bends define the corners of said generally rectangular cross-sectional configuration and wherein the bends extend at substantially right angles to the length of said webs or ribs bent along the corners of said generally rectangular cross-sectional configuration to define said tubular element. However, Brandes discloses tubular elements composed of a flat sheet (2 spaced parallel walls) of sheet of plastic material having a series of integral spaced parallel webs or ribs of material strengthening the sheet wherein bends define the corners of said generally rectangular cross-sectional configuration and wherein the bends extend at substantially right angles to the length of said webs or ribs bent along the corners of said generally rectangular cross-sectional configuration to define said tubular element (Brandes Fig 13 reference number 106; see also column 9 lines 27-34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the tubular element of Baker with one that was formed from a flat sheet of material, as taught by Brandes, for the purpose of creating a structure that is light in weight and provides great structural strength (column 1, lines 63-65).

The product by process limitation in claim 4 results in no structure that is different from Baker as modified by Brandes. Therefore, no further structural limitation from claim 3 has been claimed.

With respect to claim 5, Baker does not disclose that the free longitudinal edges of a sheet of material bent to the said tubular element configuration overlap and define a double wall at one side of the tubular element. However, Brandes does disclose that the free longitudinal edges of a sheet of material bent to the said tubular element configuration overlap and define a double wall at one side of the tubular element (Fig 13 at reference number 118 and 116). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the tubular elements of Baker with the double walled bent folded tubular member, as taught by Brandes, for the purpose of joining the loose ends of the flat sheet together to form and strengthen the tubular element (column 9, lines 41-46).

With respect to claim 7, Baker discloses that one end of each tubular element has integral flange formations formed by bends in the material at right angles to those defining the tubular shape (Fig 5 at reference number 36 extended).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al., (US Pat 6,213,305) as applied to claim 1 above and further in view of Cohen (US Pat 3,329,103).

With respect to claim 9, Baker does not teach that the opposite end of each tubular element has a perforation through the material. However, Cohen teaches a tubular member (Cohen Fig 1 reference number 2) with a perforation (3) that enables tubular elements to be detachably rigidly held (column 4, lines 34-35). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to modify the tubular elements of Baker to include perforations, as taught by Cohen, for the purpose of better retaining them in place.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al., (US Pat 6,213,305) in view of Brandes et al., (US Pat 6,041,718) as applied to claim 2 above and further in view of Cohen (US Pat 3,329,103).

With respect to claim 10, Baker as modified does not teach that the opposite end of each tubular element has a perforation through the material. However, Cohen teaches a tubular member (Cohen Fig 1 reference number 2) with a perforation (3) that enables tubular elements to be detachably rigidly held in place (column 4, lines 34-35). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the tubular elements of Baker as modified to include perforations, as taught by Cohen, for the purpose of better retaining them in place.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al., (US Pat 6,213,305) as applied to claim 1 above and further in view of Ross (US Pat 6,533,121).

With respect to claim 11, Baker does not disclose that the laterally spaced sleeves are formed within the general rectangular shape of the bag such that the bottom of the bag is substantially coplanar with a bottom wall of each of the spaced sleeves. However, Ross discloses a bulk bag (Ross Fig 1) where the laterally spaced sleeves (18) are formed within the general rectangular shape of the bag such that the bottom of the bag is substantially coplanar with a bottom wall of each of the spaced sleeves (Fig 1 generally). Therefore, it would have been obvious to one of ordinary skill in the art at

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the time the invention was made to modify the bulk bag of Baker so that the bottom of the bag was formed substantially coplanar with a bottom wall of the lateral sleeves, as taught by Ross, for the purpose of better stabilizing the bag when stacked for storage or when the bag is filled with bulk goods (column 2, lines 54-61).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al., (US Pat 6,213,305) in view of Brandes et al., (US Pat 6,041,718) as applied to claim 2 above and further in view of Ross (US Pat 6,533,121).

With respect to claim 12, Baker as modified does not disclose that the laterally spaced sleeves are formed within the general rectangular shape of the bag such that the bottom of the bag is substantially coplanar with a bottom wall of each of the spaced sleeves. However, Ross discloses a bulk bag (Ross Fig 1) where the laterally spaced sleeves (18) are formed within the general rectangular shape of the bag such that the bottom of the bag is substantially coplanar with a bottom wall of each of the spaced sleeves (Fig 1 generally). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the modified bulk bag of Baker so that the bottom of the bag was formed substantially coplanar with a bottom wall of the lateral sleeves, as taught by Ross, for the purpose of better stabilizing the bag when stacked for storage or when the bag is filled with bulk goods (column 2, lines 54-61).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yamaguchi et al., (US Pat 4,714,026) discloses a pallet system

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with a bendable plastic tubular element. Coles et al., (US Pat 4,274,540) discloses a cable tie connected to container and tubular element.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Pollicoff whose telephone number is (571)272-7818. The examiner can normally be reached on M-F: 7:30A.M.-4:00P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SBP 5/11/06
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